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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,593	09/19/2001	Christopher Mark Elms	120 01449 US	7237

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EXAMINER

MCALLISTER, STEVEN B

ART UNIT PAPER NUMBER

3627

DATE MAILED: 07/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/954,593

Applicant(s)

ELMS ET AL.

Examiner

Steven B. McAllister

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2005.  
2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-36 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claims 1, 8, 14, 21, 27, 28, and 35 recite "recognizing a pattern between said communication from said first part and said correspondence [of said second party]". The original disclosure shows "Analysis of the database of questions and answers allows the administrator to suggest bundles of products and services to recommend a best solution to the most common and difficult problems. This will also permit the administrator to create branded products from the information captured from the database. For example, patterns or relationships between questions asked and resulting products purchased will be determined, and thereafter, if a buyer asks questions associated with the patterns, then a product or a group of products will be suggested to the buyer." While the specification makes broad reference to analyzing questions and answers to determine a product, it does not describe how this would be

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accomplished in such a way as to reasonably convey to one skilled in the art that the inventor had possession of the claimed subject matter at the time of the invention.

It is noted, however, that recognizing a pattern between questions asked and products purchased is described adequately. It is not clear how correlating a first question asked ("said communication") to a first reply ("said correspondence") could provide a relationship to items purchased.

Further the claims above recite "suggesting a product ... to at least one of said first party or said second party". However, the original disclosure shows only suggesting the product to a buyer – the first party.

Regarding claims 29-34 and 36, the claims recite that the pattern relates to "(a) a problem that said first party is trying to solve, (b) a popular product or combination of products, and (c) effectiveness of a vendor". However, claims 1, 8, 14, 21, 27, 28, and 35, from which the claims in question depend, recite that the pattern "between said communications from said first party and said correspondence". The original specification does not describe that claimed topics (a), (b) and (c) can be determined from or are related to the patterns between the communication and the correspondence. Rather, the original disclosure suggests that these are topics that can be determined by analysis of the satisfaction/ranking responses. It is noted that these responses are only responses to a question asked by the system and answered only to the system, and do not represent communication or correspondence between the parties.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 8-10, 12, 14-16, 22, 23, 27, 28, 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer (6,356,909) in view of Paclat (6,847,963).

Spencer shows receiving a query from a first party (e.g., selecting the address book to determine possible recipients); searching a database for correspondents and sending a list of potential correspondents including a second party (e.g., showing those in the address book); receiving an indication that the first party wants to correspond with the second party (e.g., comprising checking the selection box next to that party – Fig. 16); receiving a correspondence comprising an RFP; presenting the second party with the RFP; receiving a correspondence from the second party comprising a reply; passing it to the first party; and soliciting from the first party its level of satisfaction with the correspondence from the second party (e.g., col. 9, lines 20-25). Spencer does not show recognizing a pattern between communications from a first party and responses; or suggesting product or service to the first party based on the pattern. Paclat shows these elements. It would have been obvious to one of ordinary skill in the art to modify the method of Spencer by recognizing a pattern between communications from a first

party and responses; or suggesting product or service to the first party based on the pattern as taught by Paclat in order to provide suggestions which would be in accordance with the customer's preferences.

Claims 1-3, 8-10, 12, 14-16, 22, 23, 27, 28-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer (6,356,909).in view of DeTreville (6,078,740)

Spencer shows receiving a query from a first party (e.g., selecting the address book to determining possible recipients); searching a database for correspondents and sending a list of potential correspondents including a second party (e.g., showing those in the address book); receiving an indication that the first party wants to correspond with the second party (e.g., comprising checking the selection box next to that party – Fig. 16); receiving a correspondence comprising an RFP; presenting the second party with the RFP; receiving a correspondence from the second party comprising a reply; passing it to the first party; and soliciting from the first party its level of satisfaction with the correspondence from the second party (e.g., col. 9, lines 20-25). Spencer does not show recognizing a pattern between communications from a first party and responses; or suggesting product or service to the first party based on the pattern. DeTreville shows these elements. It would have been obvious to one of ordinary skill in the art to modify the method of Spencer by recognizing a pattern between communications from a first party and responses; or suggesting product or service to the first party based on the

pattern as taught by DeTreville in order to provide suggestions which would be in accordance with the customer's preferences.

As to claims 29-34 and 36, it is noted that DeTreville shows that the pattern relates to a popular product (via observations by others).

As to claims 14, 21, 27 and 28, it is noted that the apparatus of Spencer shows all recited elements since the software and hardware of Spencer carries out the recited steps (see rejection of claims 1 and 8 above).

As to claims 2, 9, 15, and 22, the correspondence from both parties is saved and is viewable by both parties.

As to claims 3, 10, 16, and 23, Spencer shows presenting a service to from the second party to the first.

As to claim 12, Spencer shows soliciting comments from the first party comprising rating the response from the second party.

Claims 4, 11, 17 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer in view of Paclat (or DeTreville) as applied to claims 1, 3, 8, 10, 14, 16, 21 and 23, and further in view of Gusley (6,725,204).

Spencer in view of Paclat (or DeTreville) shows all elements of the claims except receiving a desire to receive the service or product from the first party and sending an order to the second party. Gusley shows these steps. It would have been obvious to one of ordinary skill in the art to modify the method of Spencer by completing the

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transaction as shown by Gusley in order to provide a consistent interface for the parties to complete the transaction.

Claims 7, 13, 20, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer in view of Paclat (or DeTreville) as applied to claims 1, 8, 14, and 21, and further in view of Kaufeld et al (5,859,967).

Spencer in view of Paclat (or Detreville) shows all elements of the claims except translating communications from parties from one language to another. Kaufeld et al show translating communications. It would have been obvious to one of ordinary skill in the art to modify the method of Spencer by providing translation as taught by Kaufeld et al in order to allow contracting between parties who speak different languages.

Claims 6, 19, and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spencer in view of Paclat (or DeTreville).

Spencer shows all elements of the claims except calculating compensation due to the host system. However, it is notoriously old and well known in the art to determine a fee or commission for mediating a contracting processes. It would have been obvious to one of ordinary skill in the art to modify the process of Spencer by calculating a fee or commission in order to provide revenue to the host system.

***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (571) 272-6785. The examiner can normally be reached on M-Th 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P. Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven B. McAllister

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A handwritten signature in black ink, appearing to read "S. B. McAllister".

Steven B. McAllister

Primary Examiner  
Art Unit 3627

**STEVE B. MCALLISTER**  
**PRIMARY EXAMINER**